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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/616,872

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EXAMINER

ALIE, GHASSEM

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

01/28/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/616,872	<b>Applicant(s)</b> THOMAS ET AL.	
	<b>Examiner</b> GHASSEM ALIE	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11/25/08.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3, 4, 6 and 23-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 3, 4, 6 and 23-29 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/08/09 has been entered, wherein claims 6 and 23 are amended.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 3-4, 6 and 23-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 23, the disclosure does not disclose that the outer surface of the hand grip portion is sloped toward the blade. The elected Fig. 1 does not show that the outer surface of the hand grip portion that is received by a user's palm is sloped toward the blade. In fact, it appears that at least the bottom section and the middle section of the outer surface of the hand grip portion are sloped away from the blade. See Fig. 1 in the instant application.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

a person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 3, 6, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Davey (2,017,895). Regarding claim 23, Davey teaches a hand saw 10 including a handle 12 having a handgrip portion 21 adapted to be received by a users' palm and fingers. It should be noted that handgrip 21 is one of the two handgrip portions of the handle. It should also be noted that the handgrip portion 21 is capable of being received by a user's palm and fingers. A user can simply receive the handgrip portion by his/her palm and fingers. Davey also teaches that the saw includes first and second blade mounting portions 24, 27, the hand grip portion defining an inner surface adapted to be received by the user's fingers and an outer surface adapted to be received by the user's palm. It should be noted that the first mounting portion is defined by the T-headed stud 24 and the pin 27 at A or B. The second mounting portion is defined by the T-headed stud 24 and the pin 27 at C. Davey also teaches that the first mounting portion being disposed on a side surface of the handle 12 and the second blade mounting portion being on a bottom surface of the handle 12. Davey also teaches a blade A-C removably mounted at a proximal end of the blade to one of the first and second blade mounting portions and extending away from the handle 12 in a first direction away from the handle, wherein the blade has an unsupported distal end. Davey also teaches that the inner surface and outer surface of the handgrip portion are sloped toward the blade so as to be

6. Claim 6 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Cunneen (1,835,638). Regarding claim 23, Cunneen teaches a hand saw including a handle H, 4, 6, 7 having a handgrip portion, defining an inner surface and outer surface adapted to be received by a users' palm and fingers. Cunneen also teaches that the saw includes first and second

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blade mounting portions. It should be noted that the portion of the handle that supports the pin 27 is considered to be the first mounting portion, and portion of the handle that supports the pin 61 considered to be the second mounting portion. Cunneen also teaches that the first mounting portion being disposed on a side surface of the handle and the second blade mounting portion being on a bottom surface of the handle. Cunneen also teaches a blade "B" removably mounted at a proximal end of the blade to one of the first and second blade mounting portions and extending away from the handle in a first direction away from the handle, wherein the blade has an unsupported distal end. It should be noted that distal end of the blade "B" is unsupported. Cunneen also teaches that the inner surface and outer surface of the handgrip portion are sloped toward the blade "B" so as to be oriented at an acute angle relative to the second blade mounting portion. It should be noted that the inner surface and outer surface of the handgrip portion are sloped toward the blade. Cunneen also teaches that the first and second blade mounting portions each include a key 27, 61 adapted to be received in and end slot in the blade. See Fig. 1 in Cunneen.

Regarding claim 6, Cunneen teaches everything noted above including that the handle includes a hook member 4 for hanging the hand saw.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

Obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negative by the manner in which the invention was made.

To the degree that it could be argued that Davey does not teach the hand grip

portion is adapted to be received in a user's palm the rejection below is applied.

8. Claims 3, 6 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davey in view of Derr (2,606,584) or Holden (183,805). Regarding claim 23, Davey teaches a hand saw 10 including a handle 12 having a handgrip portion 20 adapted to be received by a users' palm and fingers. Davey also teaches that the saw includes first and second blade mounting portions 24, 27. It should be noted that the first mounting portion is defined by the T-headed stud 24 and the pin 27 at A or B. The second mounting portion is defined by the T-headed stud 24 and the pin 27 at C. Davey also teaches that the first mounting portion being disposed on a side surface of the handle 12 and the second blade mounting portion being on a bottom surface of the handle 12. Davey also teaches a blade A-C removably mounted to one of the first and second blade mounting portions and extending away from the handle 12 in a first direction away from the handle, wherein the blade has an unsupported distal end. Davey also teaches that the first and second blade mounting portions each include a key 27 adapted to be received in and end slot in the blade. Davey does not teach that the handgrip portion is sloped toward the blade so as to be oriented at an acute angle relative to the second blade mounting portion. In other words, Davey does not teach that the hand grip portion of the handle 20 includes inner and outer surfaces slopped toward the blade. Davey teaches that the hand grip portion of the handle 20 is sloped away from the blade. However, the use of a handle having a hand grip portion sloped toward the blade of a hand saw is well known in the art such as taught in Derr or Holden. Derr teaches a hand saw including a handle 5 having a hand grip portion having an inner and outer surfaces slopped toward a blade 1, 3. See Figs. 1-

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4 in Derr. It should be noted that the outer surface of the grip portion in Derr is considered to be sloped toward the blade as much as the outer portion of the handgrip in the instant invention is considered to be sloped toward the blade. Holden also teaches a handle "A" having a hand grip portion including inner and outer surfaces sloping toward a blade "B." See Fig. 1 in Holden. It should also be noted that the replacement of the handgrip portion of the handle in Davey with the handgrip portion of the handle 5 in Derr or handle "A" in Holden only involves a routine substitute of a known hand grip portion for a similar one which performs the same function. Therefore, it would have been obvious to a person of ordinary skill in the art to replace the hand grip portion of the Davey's hand saw with the hand grip portion, as taught by Derr or Holden, since both hand grip portions are art-recognized equivalents which perform the same function.

Regarding claims 3 and 6, Davey teaches everything noted above including that the handle is a single integrally formed member. Davey, as modified above, also teaches that the handle 5 include a hook member for hanging the handsaw. It should be noted that the curved area of the handgrip portion could be used as a hook member. See Fig. 1 in Derr.

9. Claims 4 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davey in view of Applicant's Admitted Prior Art, hereinafter AAPA. Regarding claims 24 and 26, Davey teaches everything noted above including that the blade A-C is secured relative to the handle 12 in each of lengthwise direction of the blade and a widthwise direction of the blade. It should be noted that the key 27 and pin prevent the blade from movements in both lengthwise and widthwise directions. Davey does not explicitly teach that the blade mounting portions each include a mounting screw which inherently prevent the



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movement of the blade in lengthwise, widthwise and depthwise directions. However, in a prior Office action, Official Notice was taken that it is old and well known in the art to use a screw boss while attaching two parts in order to guide a fastener. Applicant failed to traverse the merits of this rejection, so the common knowledge is taken to be admitted prior art.

Therefore, it would have been obvious to a person of ordinary skill in art to provide a boss screw with the Davey's saw for the purpose of guiding the fastener. In addition, it would have been obvious to a person of ordinary skill in art to use an alternative fastener, such as a screw, with the Davey's device since such fasteners are known equivalents.

Regarding claim 4, Davey, as modified above, also teaches that the blade mounting screw is removably engaged with screw boss of the one of said first and second blade mounting portions so as to couple the blade to the handle 12.

Regarding claim 25, Davey also teaches that the handle include a hook member for hanging the handsaw. It should be noted that the curved area between the two grip portions 20 and 21 of the handle is considered to be a hook portion that could be used for hanging the hand saw.

Regarding claims 27-28, Davey, as modified above, teaches everything noted above including that the first and second blade mounting portions inherently include a threaded hole for receiving the fastener or the mounting screw.

Regarding claim 29, Davey also teaches that the handle include a hook member for hanging the handsaw. It should be noted that the curved area between the two grip portions 20 and 21 of the handle is considered to be a hook portion that could be used for hanging the hand saw.

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10. Claims 4 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davey in view of Derr or Holden, as applied to claim 23, and in further view of Applicant's Admitted Prior Art, hereinafter AAPA. Regarding claims 24 and 26, Davey teaches everything noted above including that the blade A-C is secured relative to the handle 12 in each of lengthwise direction of the blade and a widthwise direction of the blade. It should be noted that the key 27 and pin prevent the blade from movements in both lengthwise and widthwise directions. Davey does not explicitly teach that the blade mounting portions each include a mounting screw which inherently prevent the movement of the blade in lengthwise, widthwise and depthwise directions. However, in a prior Office action, Official Notice was taken that it is old and well known in the art to use a screw boss while attaching two parts in order to guide a fastener. Applicant failed to traverse the merits of this rejection, so the common knowledge is taken to be admitted prior art. Therefore, it would have been obvious to a person of ordinary skill in art to provide a boss screw with the Davey's saw for the purpose of guiding the fastener. In addition, it would have been obvious to a person of ordinary skill in art to use an alternative fastener, such as a screw, with the Davey's device since such fasteners are known equivalents.

Regarding claim 4, Davey, as modified above, also teaches that the blade mounting screw is removably engaged with screw boss of the one of said first and second blade mounting portions so as to couple the blade to the handle.

Regarding claim 25, Davey, as modified above, also teaches that the handle include a hook member for hanging the handsaw.

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Regarding claims 27-28, Davey, as modified above, teaches everything noted above including that the first and second blade mounting portions inherently include a threaded hole for receiving the fastener or the mounting screw.

Regarding claim 29, Davey, as modified above, teaches that the handle include a hook member for hanging the handsaw.

***Response to Amendment***

11. Applicant's argument that Davey trigger 21 could not receive the operator's palm is not persuasive. Firstly, claim 1 recites, "a hand grip portion adapted to be received by a user's palm and fingers." In this case, the hand grip of the handle 21 could be received by a user's palm and fingers. Secondly, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, the grip portion of the handle 21 is capable of being received by a user's palm and fingers. The claims do not call for a hand grip portion having a particular shape and dimension that is different than the prior art. It appears that the handle is the main invention. However, the detailed structure of the handle has not been claimed in a manner that distinguishes the handle of the instant invention from the handle 21 in Davey. Applicant's argument that the handle in Davey does not include a hook member for hanging the saw is not persuasive. It should be noted that the curved area between the two grip portions 20 and 21 of the handle is considered to be a hook portion that could be used for hanging the hand saw. Applicant asserts that a person of ordinary skill in the art would not contemplate combining the handle of the Derr with the

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Davey invention because the Derr handle could not support the identical structure for receiving the blade on its top face. However, the grip section of the handle in Derr is combined with the handle in Davey or only the hand grip section of the handle in Davey is modified. Therefore, the structures for receiving the blades in the Davey handle are not modified. The modification is on the hand grip of the Davey's handle. Applicant's argument that combining the hand grip of the handle in Derr with the hand grip of the handle in Davey would not provide the operator with the requisite cutting force to cut a workpiece is not persuasive. The hand grip portion in Derr provides the operator with the requisite cutting force for cutting a workpiece with Derr's saw and it also would provide the operator of Davey's saw with requisite cutting force for cutting a workpiece, since both saws in Derr and Davey are hand-held saws which have similar saw blades.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bentley (5,577,325) teaches a hand saw.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ghassem Alic/

Primary Examiner, Art Unit 3724

January 23, 2009